

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT HUNTINGTON

ETHAN J. MOORE,

Petitioner,

VS.

CIVIL ACTION NO. 3:09-0156

UNITED STATES OF AMERICA
and RICARDO MARTINEZ, Warden,

Respondents.

FINDINGS AND RECOMMENDATION

Ethan J. Moore, a federal prisoner sentenced by this Court to life imprisonment in November of 1999, filed a petition for writ of habeas corpus under the provisions of 28 U.S.C. § 2241¹ naming as respondents the United States and Ricardo Martinez, Warden. Presumably, Ricardo Martinez is the Warden at the United States Penitentiary in Allenwood, Pennsylvania where Moore is incarcerated and, in light of the fact that the caption on the petition indicates a filing in the Middle District of Pennsylvania, it would seem that Moore has simply mailed his petition to the wrong court. In any event, he has now filed a motion asking that his petition be dismissed.

¹A motion filed under the provisions of 28 U.S.C. § 2255 in December of 2000 was denied.

RECOMMENDATION

In light of the foregoing, it is **RESPECTFULLY RECOMMENDED** that the motion to dismiss be granted and that the petition for writ of habeas corpus filed by Ethan J. Moore be dismissed, without prejudice.

Movant and Respondent are hereby notified that a copy of these Findings and Recommendation will be submitted to the Honorable Robert C. Chambers, United States District Judge, and that, in accordance with the provisions of Rule 8(b), Rules Governing Section 2255 cases, the parties may, within thirteen days of the date of filing of these Findings and Recommendation, serve and file written objections with the Clerk of this Court identifying the specific portions of the Findings and Recommendation to which objection is made and the basis for such objection. The judge will make a de novo determination of those portions of the Findings and Recommendation to which objection is made in accordance with the provisions of 28 U.S.C. § 636(b) and the parties are advised that failure to file timely objections will result in a waiver of their right to appeal from a judgment of the district court based on such Findings and Recommendation. Copies of objections shall be served on all parties with copies of the same to Judge Chambers and this Magistrate Judge.

The Clerk is directed to file these Findings and Recommendation and to mail a copy of the same to movant and all counsel of record.

ENTER: June 16, 2009


MAURICE G. TAYLOR, JR.
UNITED STATES MAGISTRATE JUDGE